IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

RCRev..No. 224 of 2007

RCA.35/2005 of RENT CONTROL APPELLATE AUTHORITY, KOZHIKODE
RCP.16/2004 of RENT CONTROL COURT, PAYYOLI

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REVISION PETITIONERS/APPELLANTS/RESPONDENTS:

1. IYYATHIL ASHKAR, S/O.KUNHAMU,
RESIDING AT MELADY AMSOM DESOM,
KOYILANDY TALUK, REP. BY POWER
OF ATTORNEY HOLDER IBRAHIMKUTTY,
S/O.HUSSAIN, AYANIKKAD
AMSOM DESOM, KOYILANDY TALUK.

2. V.D.SURESH, S/O.VASANTH DALVI,
RESIDING AT KAREEM COTTAGE,
MELADY AMSOM, KOYILANDY TALUK.

BY ADV. SRI.R.BINDU (SASTHAMANGALAM)
SRI.PRASANTH M.P

RESPONDENT/RESPONDENT/PETITIONER:

PEEDIKAPARAMBIL PUTHIYAKATH MARIYAMMA,
D/O.MAMMAD, RESIDING AT CHETTIYAM VEETTIL,
MELADY AMSOM, KUNNAMKULAM DESOM,
KOYILANDY TALUK.

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 18/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.Koshy & K.P.Balachandran, JJ.

R.C.R.No. 224 of 2007

ORDER

Balachandran, J.

Concurrent orders of eviction passed by the Rent Control Court, Payyoli in R.C.P.No.16/04 and the Rent Control Appellate Authority, Kozhikode in R.C.A.No.35/05 under Sections 11(2)(b), 11(3) and 11(4)(i) of the Kerala Buildings (Lease and Rent Control) Act, 1965 (hereinafter referred to as 'the Act') are challenged by the petitioners/tenants in this revision. Though the petition for eviction was filed, inter alia, on grounds under Sections 11 (4)(ii), 11(4)(v) and 11(8) of the Act as well and eviction was ordered by the Rent Control Court under Section 11(4)(ii) of the Act also, eviction so ordered under Section 11(4)(ii) of the Act was set aside by the appellate authority. The matter is concluded by the order of the Rent Control Appellate Authority, as no revision is preferred by

the respondent/landlady.

2. The learned counsel for the petitioners vehemently advanced arguments assailing the concurrent findings of the authorities below under Sections 11(2)(b), 11(3) and 11(4)(i) of the Act. But, he was not able to impress upon us that the orders so passed concurrently by the authorities below are irregular, improper or illegal, so as to exercise our jurisdiction in revision to interfere with the concurrent findings entered into by the authorities below on a proper appreciation of the evidence in the case. The revision, therefore, deserves only to be dismissed.

3. Finally, it is urged by the counsel for the petitioners that reasonable time be granted to the petitioners to surrender vacant possession of the scheduled building to the respondent/landlady. The request so made deserves to be considered favourably.

In the result, we dismiss this Rent Control Revision. But, at the same time, we grant the petitioners time till 31.12.2007 to surrender vacant possession of the scheduled building to the respondent/landlady on the following conditions:

i. that they shall deposit the entire arrears of rent, if any, in the execution court with a detailed statement as to its correctness within three weeks from today.

ii. that they shall file affidavits before the execution court within one month from today, reporting that all arrears of rent are cleared and unconditionally undertaking that they will surrender vacant possession of the scheduled building to the respondent/landlady positively on or before 31.12.2007 and that they will continue to pay the future monthly rents on the due dates itself till they actually surrender vacant possession of the scheduled building to the respondent/landlady and

iii. that in case the petitioners fail to comply with the above conditions, they shall not be entitled to the benefit of continuing in occupation of the scheduled building till 31.12.2007 and shall be liable to be evicted immediately on the expiry of the aforesaid one month in execution of the order of eviction passed against them.

Registry shall communicate a copy of this order to the respondent/landlady at the expense of the petitioners, as we are disposing of this revision at the admission stage itself, without issuing notice to the respondent/landlady.

(J.B.Koshy, Judge)

18th July, 2007

(K.P.Balachandran, Judge)

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